

AMENDED IN SENATE JUNE 22, 2006

AMENDED IN ASSEMBLY MARCH 30, 2006

AMENDED IN ASSEMBLY MARCH 27, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2333

Introduced by Assembly Member Parra
(Coauthor: Assembly Member Calderon)

February 23, 2006

An act to amend Section 530.5 of the Penal Code, relating to identity theft.

LEGISLATIVE COUNSEL'S DIGEST

AB 2333, as amended, Parra. Identity theft.

Existing law provides that every person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information of another person is guilty of a crime punishable by imprisonment in a county jail for a period not to exceed one year, a fine not to exceed \$1,000 or a fine not to exceed \$1,500 if the person has been ordered to serve temporary military duty outside of the state, or by both that imprisonment and fine.

This bill would also provide that every person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information of 10 or more other persons is guilty of a crime punishable by imprisonment in the state prison for 16 months, or 2 or 3 years, or by imprisonment in a county jail for a period not to exceed one year, or by a fine not to exceed \$1,000, or by both imprisonment and fine.

Because this bill would create a new crime, it would impose a state-mandated, local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 530.5 of the Penal Code is amended to
2 read:

3 530.5. (a) Every person who willfully obtains personal
4 identifying information, as defined in subdivision (b), of another
5 person, and uses that information for any unlawful purpose,
6 including to obtain, or attempt to obtain, credit, goods, services,
7 or medical information in the name of the other person without
8 the consent of that person, is guilty of a public offense, and upon
9 conviction therefor, shall be punished either by imprisonment in
10 a county jail not to exceed one year, a fine not to exceed one
11 thousand dollars (\$1,000), or *by* both that imprisonment and fine,
12 or by imprisonment in the state prison, a fine not to exceed ten
13 thousand dollars (\$10,000), or *by* both that imprisonment and
14 fine.

15 (b) "Personal identifying information," as used in this section,
16 means the name, address, telephone number, health insurance
17 identification number, taxpayer identification number, school
18 identification number, state or federal driver's license number, or
19 identification number, social security number, place of
20 employment, employee identification number, mother's maiden
21 name, demand deposit account number, savings account number,
22 checking account number, PIN (personal identification number)
23 or password, alien registration number, government passport
24 number, date of birth, unique biometric data including
25 fingerprint, facial scan identifiers, voiceprint, retina or iris image,
26 or other unique physical representation, unique electronic data
27 including identification number, address, or routing code,

1 telecommunication identifying information or access device,
2 information contained in a birth or death certificate, or credit card
3 number of a person, or an equivalent form of identification.

4 (c) In any case in which a person willfully obtains personal
5 identifying information of another person, uses that information
6 to commit a crime in addition to a violation of subdivision (a),
7 and is convicted of that crime, the court records shall reflect that
8 the person whose identity was falsely used to commit the crime
9 did not commit the crime.

10 (d) Every person who, with the intent to defraud, acquires,
11 transfers, or retains possession of the personal identifying
12 information, as defined in subdivision (b), of another person is
13 guilty of a public offense, and upon conviction therefor, shall be
14 punished by imprisonment in a county jail not to exceed one
15 year, or a fine not to exceed one thousand dollars (\$1,000), or by
16 both that imprisonment and fine.

17 (e) Every person who, with the intent to defraud, acquires,
18 transfers, or retains possession of the personal identifying
19 information, as defined in subdivision (b), of another person who
20 is deployed to a location outside of the state is guilty of a public
21 offense, and upon conviction therefor, shall be punished by
22 imprisonment in a county jail not to exceed one year, or a fine
23 not to exceed one thousand five hundred dollars (\$1,500), or by
24 both that imprisonment and fine.

25 (f) Every person who, with intent to defraud, acquires,
26 transfers, or retains possession of the personal identifying
27 information, as defined in subdivision (b), of 10 or more other
28 persons is guilty of a public offense, and upon conviction
29 therefor, shall be punished by imprisonment in the state prison
30 for 16 months, or two or three years, or by imprisonment in a
31 county jail not to exceed one year, or by a fine not to exceed one
32 thousand dollars (\$1,000), or by both imprisonment and fine.

33 (g) For purposes of this section, “deployed” means that the
34 person has been ordered to serve temporary military duty during
35 a period when a presidential executive order specifies that the
36 United States is engaged in combat or homeland defense and he
37 or she is either a member of the Armed Forces, or is a member of
38 the Armed Forces reserve or the National Guard, who has been
39 called to active duty or active service. It does not include

1 temporary duty for the sole purpose of training or processing or a
2 permanent change of station.

3 (h) For purposes of this section, “person” means a natural
4 person, firm, association, organization, partnership, business
5 trust, company, corporation, limited liability company, or public
6 entity.

7 (i) *An interactive computer service or access software*
8 *provider, as defined in subsection (f) of Section 230 of Title 47 of*
9 *the United States Code, shall not be liable under this section*
10 *unless the service or provider acquires, transfers, or retains*
11 *possession of personal information with the intent to defraud.*

12 SEC. 2. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the
17 penalty for a crime or infraction, within the meaning of Section
18 17556 of the Government Code, or changes the definition of a
19 crime within the meaning of Section 6 of Article XIII B of the
20 California Constitution.